

(2002) 09 RAJ CK 0011

In the Rajasthan High Court

Case No : Civil Writ Petition No. 5378 of 1991

Sajjan Singh Jodha

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 12-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 1 WLC 219 : (2002) 4 WLN 661

Hon'ble Judges : Sunil Kumar Garg, J

Bench : Single Bench

Judgement

Sunil Kumar Garg, J.—This writ petition under Article 226 of the Constitution of India has been filed by the petitioner against; the respondents on 3.10.1991 with a prayer that respondent be directed to regularise the period w.e.f. 1.10.1951 to 31.7.1959 as his service period for the purpose of pension, leave, gratuity etc. and further the respondents be directed to make payment of salary of the petitioner for the period from 1.10.1956 to 31.7.1959 @ Rs. 160/- per month with an interest @ 12%.

2. The facts of the case as put forward by the petitioner are as under "?

(i) That the petitioner was initially appointed as Kamdar in the then Jagir Artiyan Kala we.f. 1.10.1951. The Jagir Artiyan Kala was resumed with effect from 30.9.1956.

(ii) The case of the petitioner is that he was working on the post of Kamdar upto resumption of Jagir. After resumption of Jagir, the staff working under the Jagir was required to submit their option as to whether they wanted to be absorbed in the services of Government of Rajasthan, The petitioner submitted his application for absorption on 30.9.1956 before the Collector, Jodhpur expressing his intention to be absorbed in the service of Government of Rajasthan. The proceedings in regard to absorption of the petitioner went on for a long period and ultimately the Commissioner, Jodhpur was pleased to issue order dtd.

11.5.1959, in regard to absorption of the petitioner in the services of State of Rajasthan.

(iii) That the case of the petitioner is that he was not paid his salary for the period from 1.10.1956 to 31.7.1959.

(iv) That the petitioner further submitted that the then Head-Master, Sh. N.N. Soni, Government Higher Secondary School, Bhawi wrote a letter dtd. 16.1.1979 (Annex. A/1) to the Collector, Jodhpur for regularisation of aforesaid period. For convenience, the letter dtd. 16.1.1979 (Annex. A/1) is quoted hereunder:

Shri Sajjan Singh, U.D.C. attach to this institution, who had been abinitio on Jagir duties as KAMDAR of Jagir ARTIYA KALLAN since 1.10.1951 and as a result of taking over that Jagir Artiya Kalian by Rajasthan Government (The Collector, Jodhpur) on 30.9.1956, under the Raj. Land Reforms and Resumption of Jagir Rule 54, was absorbed by Raj. Govt. vide the order No. Esstt/B/iii/Jagir/3657 dated 11.5.1959 issued by the Commissioner, Jodhpur, whose copy is being filed at the page No. 5 of the personal file of the incumbent and was handed over to the Collectorate, Pali for posting and then he was posted as L.D.C. at the S.D.O. office at Jaitaran.

As per the statement of the servant, he had already applied then and there to undergo Raj. Govt. Service, just state the taking over the Jagir on 30.9.1956 by Raj. Govt., but his absorption order was issued very lately. The Commissioner, Jodhpur i.e. on 11.5.1959 then after he resumed his duty as L.D.C. on 1.8.1959.

The leave record of the official (page No. 16 band 17) of service book) also reveals that privilege leave has been credited to his leave a/c for the period 1.10.1951 to 30.9.1956, which indicates that the service of the Jagir period of the official has been counted by the Asstt. Collector, Jaitaran.

Therefore, on the basis of the above mentioned facts and R.S.R. 180 and Govt. of Rajasthan's decision thereunder, it is hereby forwarded the case of the servant imposition for verifying the services w.e.f. 1.10.1951 to 31.7.1959 with his service book and personal file.

Thus from perusing the contents of the letter dtd. 16.1.1979 (Annex. 1), it becomes clear thhat the petitioner was absorbed vide order dtd. 11.5.1959 in the services of State of Rajasthan.

There is no dispute on the point that the petitioner had retired from the service with effect from 31.12.1991.

(v) The petitioner had following two grievances:

(a) First grievance of the petitioner is, his services be regularised for the period from 1.10.1951 to 31.7.1959 for the purpose of pension, leave, gratuity etc.

(b) Second grievance of the petitioner is that he was not paid the salary for the period from 1.10.1956 to 31.7.1959 and, therefore, the respondents be directed

to make payment of salary of the petitioner for the aforesaid period.

3. Reply to the writ petition was filed by the respondents admitting that the petitioner was appointed on 1.10.1951 as Kamdar in the then Jagir Artiyan Kala and it was further admitted that after absorption of the petitioner in the Office of Commissioner, Jodhpur, the petitioner worked on the post of UDC, but for the period from 1.10.1956 to 31.7.1959, since no record is available, therefore, it cannot be said that on what post he worked and averments contained in letter dtd. 16.1.1979 (Annex. A/1) have also been disputed by the learned Counsel for the respondents and it was submitted by the learned Counsel for the respondents that if records would have been available, further orders would have been passed by the respondents. Hence, the writ petition should be dismissed.

4. I have heard both and perused the record.

5. From the reply and from the writ petition, following facts have emerged:

(i) That the petitioner was appointed as Kamdar in the then Jagir Artiyan Kala and that Jagir was resumed with effect from 30.9.1956 by the State of Rajasthan.

(ii) That through order dtd. 11.5.1959, issued by the Commissioner, Jodhpur, the petitioner was absorbed as Government servant in the services of State of Rajasthan and he continued as UDC thereafter and he retired on 31.12.1991.

(iii) However, it is also not clear as to on what post, the petitioner worked for the period from 1.10.1956 to 31.7.1959.

6. Rule 6 of the Rajasthan Land Reforms and Resumption of Jagir Rules, 1954 (hereinafter referred to as the Rules of 1954 which is relevant for the present controversy is reproduced hereunder:

6. Counting service for pension :- The past services of Jagir Employees who are absorbed in Government service shall be counted for pension in cases where the services of such employees were pensionable under the Jagir and were otherwise qualifying according to Rajasthan Service Rules for the purpose of such pension.

7. From a bare perusal of Rule 6 of the Rules of 1954, it is clear that past services of Jagir employees who are absorbed in Government services shall be counted for pension.

8. In my opinion, the past services of Jagir employees absorbed permanently in Government services and retired thereafter, should be counted for the purpose of granting pension by virtue of Rule 180 of the Rajasthan Service Rules and thus, from this point of view it is held:

(i) That the petitioner is entitled to regularisation of his services for the period from 1.10.1951 to 31.7.1959 for the purpose of granting pension, gratuity, leave etc.

(ii) However, the prayer of the petitioner that the respondent No. I be directed to make payment of his salary for the period from 1.10.1956 to 31.7.1959 does not

appear to be reasonable one as the order of absorption of petitioner was passed on 11.5.1959 and thus, this prayer is liable to be rejected.

9. For the reasons mentioned above, this writ petition is liable to be allowed in part. Accordingly, the present writ petition is allowed in part in the following manner:

That the respondents are directed to regularise the services of petitioner for the period from 1.10.1951 to 31.7.1959 for the purpose of pension, leave, gratuity etc. and the respondents are further directed to pass appropriate orders in respect of payment of pension, leave, gratuity etc. in favour of the petitioner within a period of three months from today.

However, the prayer of the petitioner for making payment of the salary for the period from 1.10.1956 to 31.7.1959 stands rejected.

Cost made easy.